

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #13	CCRB Case #: 201608051	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/31/2016 8:20 PM	Location of Incident: Intersection of East 165th Street and Gerard Avenue; 44th Precinct stationhouse	Precinct: 44	18 Mo. SOL 2/28/2018	EO SOL 2/28/2018	
Date/Time CV Reported Sat, 09/10/2016 1:02 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/20/2016 11:07 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jorge Flores	7680	954816	044 PCT
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ramon Mejia	16973	957845	044 PCT
2. SGT Steve Ortiz	5214	942299	044 PCT
3. SGT Alfonsina Delacruz	5059	932538	044 PCT
4. POM Harris Haskovic	27534	953953	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: At the intersection of East 165th Street and Gerard Avenue in the Bronx, officers damaged § 87(2)(b)'s property.	
B. POM Jorge Flores	Abuse: At the 44th Precinct stationhouse, PO Jorge Flores did not obtain medical treatment for § 87(2)(b)	
C. Officers	Discourtesy: At the 44th Precinct stationhouse, officers acted discourteously toward § 87(2)(b)	
D. Officers	Discourtesy: At the 44th Precinct stationhouse, officers spoke discourteously to § 87(2)(b)	
E. Officers	Off. Language: At the 44th Precinct stationhouse, officers made remarks to § 87(2)(b) based upon race.	

Case Summary

On September 10, 2016, § 87(2)(b) filed this complaint with IAB by phone, generating IAB log number 16-32205. The case was received at the CCRB on September 20, 2016.

On August 31, 2016, at approximately 8:20 p.m., § 87(2)(b) was walking south on River Avenue in the Bronx towards East 165th Street. A man § 87(2)(b) was walking behind § 87(2)(b) with his hand in his pocket in a way that made § 87(2)(b) fearful. § 87(2)(b) believed that § 87(2)(b) was part of a group of males that had harassed him earlier in the evening at a park near that location. § 87(2)(b) turned left on East 165th Street and called 911 to ask for police to come help him.

At the intersection of East 165th Street and Gerard Avenue, § 87(2)(b) removed a knife from his book bag for self-defense, and got into a physical altercation with § 87(2)(b) PO Jorge Flores and PO Ramon Mejia of the 44th Precinct arrived at that location, grabbed § 87(2)(b) and placed him in handcuffs. Approximately six additional officers arrived at that location, and several officers cut open § 87(2)(b)'s book bag with knives to search the bag (**Allegation A**). § 87(2)(b) was transported to the 44th Precinct stationhouse, and placed in a holding cell by PO Flores. § 87(2)(b) told PO Flores that he suffered from epilepsy and needed to take his medication, and PO Flores responded that § 87(2)(b) could not take his medication in police custody (**Allegation B**). Shortly afterwards, § 87(2)(b) felt unwell and had a seizure in the holding cell.

§ 87(2)(b) lost consciousness while suffering his seizure, and when he regained consciousness he was seated outside of his cell and surrounded by a group of officers. The officers were all laughing at § 87(2)(b) (**Allegation C**) and several called him a “fucking Hispanic” (**Allegations D and E**). § 87(2)(b) was transported to § 87(2)(b), where he was given Carbamazepine for his epilepsy.

§ 87(2)(b) was charged with § 87(2)(a) 160.50
§ 87(2)(b). The officers claimed that § 87(2)(b) had been seen breaking into a vehicle prior to this incident.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) rejected mediation.
- A notice of claim request was submitted to the NYC Comptroller’s office on December 9, 2016. On December 14, 2016, it was returned with negative results (01 Board Review).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
■ [§ 87(2)(b)]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint.
- PO Flores has been a member of service for three years. There are no prior substantiated allegations on his record, § 87(2)(g).

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) stated that six uniformed police officers initially approached him at the intersection of East 165th Street and Gerard Avenue, and that multiple officers cut open his backpack to search it after he had been handcuffed (04 Board Review). § 87(2)(b) could not describe the officers who did this in any way. PO Flores (05 Board Review), PO Mejia (06 Board Review), and Sgt. Steve Ortiz (07 Board Review) all denied cutting open § 87(2)(b)'s bag, and denied seeing any other officer do this. § 87(2)(b) also denied seeing any officer do this (08 Board Review). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) could not describe any of the officers who were laughing at him after his seizure, nor could he describe any of the officers who allegedly called him a “fucking Hispanic.” PO Flores and PO Mejia both denied these allegations, and Sgt. Alfonsina Delacruz (09 Board Review), the desk sergeant at the time of these allegations, did not recall the incident. § 87(2)(b) another prisoner in the 44th Precinct stationhouse at the time of these allegations, recalled § 87(2)(b) falling to the ground in a holding cell, but denied that any officers laughed at § 87(2)(b) or called him a “fucking Hispanic” (10 Board Review) § 87(2)(g)

§ 87(2)(b)

Witness Identification

§ 87(2)(b) and § 87(2)(b) were identified as potential witnesses to **Allegation A** from the complaint report prepared by PO Flores (11 Board Review). § 87(2)(b) was the victim of the alleged vehicle break-in on the complaint report, and § 87(2)(b) was a witness on the report.

§ 87(2)(b) and § 87(2)(b) were identified by the 44th Precinct command log (12 Board Review) as other prisoners in the stationhouse holding cells during the time that **Allegations B, C, D, and E** would have occurred.

Contact attempts were made to all four individuals, but a statement was obtained from § 87(2)(b) only.

Allegations Not Pleaded

Stop – § 87(2)(b) did not dispute that when the police arrived at the intersection of East 165th Street and Gerard Avenue in the Bronx, he was in a dispute with § 87(2)(b) and that he himself was holding a knife at that time. It is also undisputed that the officers had received a description over the radio of § 87(2)(b) and that he had been seen breaking into vehicles and was now armed with a knife (13 Board Review). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation A: Abuse of Authority – At the intersection of East 165th Street and Gerard Avenue in the Bronx, officers damaged § 87(2)(b)'s property.

Allegation C: Discourtesy – At the 44th Precinct stationhouse, officers acted discourteously towards § 87(2)(b)

Allegation D: Discourtesy – At the 44th Precinct stationhouse, officers spoke discourteously towards § 87(2)(b)

Allegation E: Offensive Language – At the 44th Precinct stationhouse, officers made remarks to § 87(2)(b) based upon race.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation B: Abuse of Authority – At the 44th Precinct stationhouse, PO Jorge Flores did not obtain medical treatment for § 87(2)(b)

It is undisputed that § 87(2)(b) told PO Flores at the 44th Precinct stationhouse that he suffered from epilepsy and needed to take his medication. It is also undisputed that PO Flores did not allow § 87(2)(b) to take any medication, nor did he attempt to obtain any medical attention for § 87(2)(b) or notify a supervising officer of § 87(2)(b)'s request for medication at that time. It is also undisputed that § 87(2)(b) suffered a seizure in a holding cell.

§ 87(2)(b) stated that while he was in a holding cell, he told PO Flores that he needed to take his medication, and PO Flores replied that he could not do so in police custody. § 87(2)(b) insisted that he needed to take his medication, but the officer did not let him do so.

Shortly after this interaction with PO Flores, § 87(2)(b) began to feel unwell and suffered a seizure in his holding cell at the stationhouse.

PO Flores stated that § 87(2)(b) told him that he was epileptic and needed to take his medication one time (15 Board Review). PO Flores could not recall when or where this conversation took place, except that it was in the 44th Precinct stationhouse, and that it occurred when they arrived at the stationhouse from § 87(2)(b)'s location of arrest. PO Flores told § 87(2)(b) he could not take his medication and then began preparing § 87(2)(b)'s arrest paperwork. Some time after this (PO Flores could not recall how much time), PO Flores was notified by other officers that § 87(2)(b) was lying on the floor in his cell. PO Flores went to the cell area and saw § 87(2)(b) lying motionless on the floor. An ambulance was then called for § 87(2)(b) and he was transported to § 87(2)(b).

At § 87(2)(b), § 87(2)(b) was given Carbamazepine, a medication used to treat epilepsy (16 Board Review).

According to Patrol Guide Procedure 210-04, if a prisoner in police custody requires medical treatment, an officer must request an ambulance and remove the prisoner to a hospital for medical treatment. Administration of medication is performed under health care supervision (17 Board Review).

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Squad: 13

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____

Title/Signature

Print

Date